

IN THE MATTER OF THE CLAIM OF

ANDREW R. BOTTARI,

Claimant,

-against-

THE VILLAGE OF ARDSLEY,
COUNTY OF WESTCHESTER,
ARDSLEY POLICE OFFICER MICHAEL
STEVENSON, SERGEANT FISCHER,
ET AL.,

Respondents.

-----X
148 Martine Avenue
White Plains, New York
August 16, 2006
2:00 p.m.

EXAMINATION OF ANDREW R. BOTTARI, the Claimant herein, held pursuant to a Notice, pursuant to Section 50-H of the General Municipal Law and Stipulations of Adjournment, held at the above time and place, before a Notary Public within and for the State of New York.

CARBONE & ASSOCIATES, LTD.
Lisa Blute
111 North Central Park Avenue
Hartsdale, New York 10530
(914) 684-0201

COPY

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1 IT IS HEREBY STIPULATED AND AGREED, by and
2 between the attorneys for the respective parties
3 hereto, that this examination may be sworn to
4 before any Notary Public.

6 IT IS FURTHER STIPULATED AND AGREED that
7 the filing and certification of said examination
8 shall be waived.

10 IT IS FURTHER STIPULATED AND AGREED that
11 all objections to questions, except as to form,
12 shall be reserved for the time of trial.

1 A P P E A R A N C E S:

2
3 ROCCO D'AGOSTINO, ESQ.
4 Attorney for the Claimant
5 445 Hamilton Avenue, Suite 607
6 White Plains, New York 10601

7
8 CHARLENE M. INDELICATO, ESQ.

9 WESTCHESTER COUNTY ATTORNEY
10 Attorney for the Respondents
11 148 Martine Avenue - 6th Floor
12 White Plains, New York 10601
13 BY: SHANNON BRADY, ESQ.

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Andrew R. Bottari

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1 A N D R E W R. B O T T A R I, the Claimant
2 herein, after having been first duly sworn by Lisa
3 Blute, a Notary Public of the State of New York,
4 was examined and testified as follows:
5 EXAMINATION BY MS. BRADY:

6 Q Please state your name and address
7 for the record?

8 A Andrew R. Bottari, 10 Springwood
9 Avenue, Ardsley, New York 10502.

10 Q Good afternoon, Mr. Bottari. My
11 name is Shannon Brady and I represent the County of
12 Westchester. I'm going to be asking you some
13 questions about a claim that you filed against
14 Ardsley and the County of Westchester. If you
15 don't understand my question, please let me know
16 and I'll repeat it or rephrase it. I just ask that
17 all your answers be verbal, because the court
18 reporter cannot take down a shake or nod.of the
19 head. Okay?

20 A Yes.

21 Q What does the "R" stand for?

22 A Richard.

23 Q The address on Springwood Avenue,
24 is that a private home?

25 A Yes.

1 Q How long have you lived there?
 2 A Five, six years.
 3 Q Do you live there with anyone?
 4 A With my wife and two children.
 5 Q What is your wife's name?
 6 A Michelle.
 7 Q Bottari?
 8 A Yes, all have the same last name.
 9 Q What are your children's names and
 10 ages?
 11 A Olivia, 8; Paul, 7.
 12 Q Where did you live before
 13 Springwood Avenue?
 14 A 1501 Fox Clinton Drive, Hartsdale,
 15 New York 10530.
 16 Q How long did you live there?
 17 A Two years.
 18 Q Are you currently employed?
 19 A I'm self-employed.
 20 Q What are you self-employed as?
 21 A As an attorney.
 22 Q Do you have a firm?
 23 A Yes, I do.
 24 Q What is the name of the firm?
 25 A Bottari and Associates, PC.

1 Q Do you have an office?
 2 A Yes, I do.
 3 Q Where is that?
 4 A 445 Hamilton Avenue, Suite 607,
 5 White Plains, New York 10601.
 6 Q Do you have any partners?
 7 A No.
 8 Q It's Bottari and Associates?
 9 A It's me.
 10 Q How long have you been practicing?
 11 A On my own or practicing in general?
 12 Q In general?
 13 A I started practicing in 1998. I
 14 was a prosecutor in the King's County District
 15 Attorney's Office. I was there for five years, and
 16 then I started off on my own, hung my own shingle,
 17 and I've been doing it ever since.
 18 Q What law school did you graduate
 19 from?
 20 A Brooklyn Law School.
 21 Q What year?
 22 A 1998.
 23 Q Are you admitted in New York?
 24 A I'm sorry?
 25 Q Are you admitted in New York?

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1 A Yes, I am.
 2 Q When were you admitted?
 3 A '99.
 4 Q Are you admitted anywhere else?
 5 A No.
 6 MS. BRADY: Please mark this as
 7 Respondent's Exhibit A.
 8 (Whereupon, a Notice of Claim was
 9 received and marked as Respondent's
 10 Exhibit A, for identification, as of this
 11 date.)
 12 Q I'm going to show you what's been
 13 previously marked as Respondent's Exhibit A and ask
 14 if you recognize it?
 15 A Yes, I do.
 16 Q What is that document?
 17 A It's a Notice of Claim that was
 18 submitted here at this address.
 19 Q Did you write that document or
 20 compose it?
 21 A I signed this document.
 22 Q Did you read the document before
 23 you signed it?
 24 A Of course.
 25 Q Your signature appears twice on

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1 that document?
 2 A Yes, it does.
 3 Q On that page which you have
 4 there? (Indicating)
 5 A Individual verification.
 6 Q Do you know when you signed that;
 7 what date?
 8 A May 5, 2006.
 9 Q Did you sign it in front of a
 10 notary public?
 11 A Yes.
 12 MS. BRADY: Off the record.
 13 (Whereupon, an off the record
 14 discussion took place.)
 15 Q Have you testified with respect to
 16 this claim prior to today?
 17 A Yes.
 18 Q Where was that?
 19 A It was in White Plains. I don't
 20 recall the address.
 21 MR. D'AGOSTINO: May I assist him?
 22 MS. BRADY: Sure.
 23 MR. D'AGOSTINO: It was yesterday,
 24 at the office of Boeggeman, George. They
 25 represent the Village of Ardsley, and the

1 attorney was Regina Valenski.

2 Q Have you had any previous claims
3 against any municipality besides this one?

4 A No.

5 Q What is your claim against the
6 County of Westchester?

7 MR. D'AGOSTINO: I'm just going to
8 object to that to the extent that it calls
9 for a legal conclusion. Although Mr.
10 Bottari is an attorney, he is being
11 represented by me, but I'll direct him to
12 answer the question.

13 MS. BRADY: Accepted.

14 A False arrest, assault, battery,
15 unlawful imprisonment, intentional infliction of
16 emotional harm, deprivation of constitutional
17 rights, violation of civil rights, medical
18 expenses, psychological distress, prima facie tort,
19 and malicious prosecution, etc.

20 Q Specifically with respect to the
21 County and in laymen's terms, not legal terms, why
22 had you filed a Notice of Claim against the County
23 of Westchester?

24 A Malicious prosecution.

25 Q Was it as the result of an arrest,

1 as it started as an arrest at some point?

2 A Correct.

3 Q What was the date of that arrest?
4 A March 3, 2005. I'm referring to
5 the Notice of Claim.

6 Q Where did that happen?

7 A It happened in Ardsley, New York,
8 725 Saw Mill River Road.

9 Q What time of day?

10 A It was around midnight.

11 Q Did it occur at a location, like
12 the name of a store, restaurant?

13 A Yes. It's a parking lot where
14 there's commercial stores and, specifically, my
15 vehicle was parked in front of CVS, a little bit
16 north, the north end of the store.

17 Q Did the arrest occur in the parking
18 lot?

19 A Yes.

20 Q Can you describe for me what
21 happened?

22 A I'm in the parking lot. I'm with
23 my vehicle. It's an SUV. I just pulled into the
24 parking lot. I'm parked there. The back of the
25 vehicle is closest to the building, so I'm

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1 perpendicular to CVS. I got out of my vehicle to
2 check something inside the back, and I shut the
3 trunk. As I did this, a police officer drove by,
4 Police Officer Stevenson. He drove past the
5 parking lot and then pulled in. I was about to get
6 into my vehicle and in an accusatory tone he
7 basically said, what are you doing here? I said,
8 nothing. I'm just here. I'm in my car, minding my
9 own business. He said, well what's your name? I
10 said, why do you need to know my name? Where are
11 you coming from, he asked me and I said, I said
12 look, I'm just getting in my car and I'm going
13 home. At that point, he pulled his vehicle in
14 front of my car and said no, you're not, you're not
15 leaving, and I said why, so I stood by the outside
16 of my car. He called Sargent Fischer, who pulled
17 up. They both got out of their cars. It was cold
18 out and I had a three-quarter length jacket on, and
19 my hands were in my pockets and both of them, if
20 you could picture a "V", and I'm the head of the
21 "V". Officer Stevenson is to the left and Sargent
22 Fischer is to the right. Officer Stevenson said,
23 take your hands out of your pockets. I said, for
24 what reason should I take my hands out of my
25 pockets and he said, for safety reasons. Before I

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1 pull my hands out of my pockets I said, I just want
2 to let you know that I have my wallet in one hand
3 and I have my phone in the other. I pulled them
4 out because I understand police officers don't know
5 who I am on the street, so I pulled my hands out
6 very slowly. I put my hands in the air. My hands
7 were raised about shoulder height, and at that
8 point both of them started to converge on me. I
9 didn't know exactly what they were doing, but, at
10 that point, they grabbed me, spun me around and
11 threw me to the ground. They were grabbing my
12 arms. As I was going down, I said look, I'm a
13 former prosecutor. I'm an attorney. They just
14 kept on going. My hands were getting twisted
15 behind my back, and I said, you can have them. I'm
16 not resisting. This is right in the middle of my
17 village. I hit the ground, and I feel some blows
18 to the back of my head. I don't know what it is,
19 if it's an elbow or fist, but there are blows to
20 the back of my head. I lifted my head up and felt
21 something dripping down my face. I looked at the
22 asphalt where my face is mashed together with the
23 asphalt, and I see blood and I'm like, I started to
24 get really angry. My hands are handcuffed at this
25 point and I said, you guys really screwed up here.

1 I used a stronger term than that.

2 MS. BRADY: I'd like you to use the
3 actual words.

4 A I said, you guys fucked up. Now,
5 my face is bleeding, and I'm going to have to go to
6 the hospital. They just left me on the ground.
7 They called EMS. Both EMS drivers I know.

8 Mr. Clear was my biology teacher in high school.

9 Q Clear, as in C-L-E-A-R?

10 A I think so. He's active in the
11 community. He's a volunteer ambulance guy, and
12 he's active in the church, and Charles Strict,
13 who's a dentist, who has children my age. Not my
14 age, but my children's age. They play soccer, they
15 play softball, and he's very active in the
16 community, also. I grew up in Ardsley, they know
17 me and I'm picked up, put in the back of the
18 ambulance and brought to Dobbs Ferry Hospital.

19 Q In handcuffs?

20 A In handcuffs, the whole time.

21 Q At any time, did they tell you that
22 you were under arrest?

23 A Yes, they did at some point.

24 Q For what charge?

25 A Yes, they did.

1 Q What was that?

2 A Well, first, can I finish the part
3 about the hospital?

4 MS. BRADY: Sure.

5 A I received four stitches above my
6 left eye.

7 MS. BRADY: As long as your
8 attorney doesn't mind that I'm going to go
9 back and clarify certain parts of the
10 narrative.

11 MR. D'AGOSTINO: Go ahead.

12 A So, after we left the hospital, I
13 was brought back to the Ardsley Village Police
14 Department where I was placed inside of a cell, and
15 at some point Officer Stevenson came out and said,
16 you're being charged with obstruction of government
17 administration, disorderly conduct, and resisting
18 arrest. The other part of this is not going to
19 address the question and I'll stop in you want me
20 to. This was placed in the local newspaper, "The
21 Enterprise", and I'm -- so I have people calling me
22 saying, what happened, you got arrested and so on
23 and so forth. It's sort of a humiliation, living
24 in my community, having children and having my
25 children have to go to school and have parents know

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1 that I was arrested, but anyway, let's go forward
2 with this.

3 Q Why were you at the parking lot of
4 CVS?

5 A I just stopped. I left my house
6 for a little while. Went down to the village. I
7 just -- no particular reason.

8 Q You said you were checking your
9 car?

10 A I wasn't checking for anything
11 specific. It's my wife's car and it's a little
12 disarrayed. I went to clean it, just to organize
13 it and I decided not to, and I went back in the car
14 and I was going to go home.

15 Q When did you leave your house; what
16 time?

17 A I think about 12:00.

18 Q Is that midnight?

19 A Yes, and it's about five minutes
20 from the village, literally, five minutes.

21 Q When you left the house, did you
22 have a destination in mind?

23 A Just go for a drive, and then I
24 just pulled into the village and parked.

25 Q How long had you been in the

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1 parking lot when you were approached by Officer
2 Stevenson?

3 A A couple of minutes, not even. I
4 mean literally I got out of my car, I went to the
5 trunk. I decided not to rearrange it and was
6 getting back into my car.

7 Q Did you have your headlights on?

8 A It was cold out. I'm going to say
9 yes because it was cold out and more than likely I
10 had the heat on. Then when the car was running,
11 the lights are automatically on.

12 Q I think you said that you were
13 perpendicular to CVS with the back facing the
14 store?

15 A Exactly.

16 Q Is that the front of the strip
17 mall, or is it on the side, or behind it?

18 A The front. I'll describe it. 9A,
19 Saw Mill River Road runs north and south. The
20 parking lot of CVS runs north and south as well,
21 and then the strip mall, it's not a strip mall, but
22 it's a commercial area, in front of it runs
23 parallel with both the parking lot and 9A. So my
24 vehicle, the front of it was facing west.

25 THE WITNESS: Do you get a picture

1 of that?

2 MS. BRADY: Yes.

3 THE WITNESS: Okay, good.

4 Q Did you know either of the
5 officers, either Officer Stevenson or Sargent
6 Fischer before that night?

7 A No.

8 MR. D'AGOSTINO: When you say know,
9 do you mean did he ever see them around,
10 or did he ever know them personally?

11 Q Did you know them personally?

12 A No, but I've seen Officer Stevenson
13 around. I do 5K races in Ardsley and also my kids
14 are in little league and they have a march from
15 Concord Road School down to McDonald Park, and I'll
16 see Officer Stevenson -- you know -- directing
17 traffic.

18 Q Can you describe Officer Stevenson
19 for me?

20 A He's a white male, about 5'10",
21 5'11", short, dirty blonde hair, fair-skinned,
22 medium build. That's the extent. I don't know
23 what color his eyes are.

24 Q That's fine. What about Sargent
25 Fischer?

1 A He's a white, thin male, black
2 hair, probably 6'2", fair-skinned and that is the
3 extent of my description of him. If I saw Sargent
4 Fischer, I would definitely know him.

5 Q What is your date of birth?

6 A 7/26/66.

7 Q What is your Social Security
8 number?

9 A 119-58-4923.

10 Q What is your height?

11 A 5'8".

12 Q What is your weight?

13 A 190.

14 Q Is that substantially the same as
15 it was back in March?

16 A I was 195.

17 Q What hospital did you say you were
18 taken to?

19 A Dobbs Ferry Community Hospital.

20 Q Approximately what time did you
21 arrive there?

22 A Between 12:15 and 12:30, 12:35; I'm
23 not really sure.

24 Q Did you have any conversations with
25 Mr. Clear or Mr. Strict during the ambulance ride?

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1 A Yes, I did.

2 Q What was the sum and substance of
3 that conversation? With whom did you have that
4 conversation?

5 A I had it with Mr. Clear because he
6 was driving and Charles Strict was in the back. I
7 just said, I can't believe this happened. I can't
8 believe I'm in the Ardsley Village minding my
9 business, and I was in complete disbelief. So, my
10 conversation with them -- I don't recall -- the sum
11 and substance was my expression of my disbelief
12 that something like this happened to me.

13 Q Was one or the other of the
14 officers in the ambulance with you?

15 A I think Officer Stevenson. I'm
16 pretty sure. I'm not positive. I'm only thinking
17 one of them had to be there because they're not
18 going to let someone they don't know be in the
19 ambulance with the EMT. So, one of the officers
20 must have been there. I don't recall which one.

21 MR. D'AGOSTINO: Is there a
22 question pending, because I want to speak
23 to my client?

24 MS. BRADY: There is no question
25 pending.

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1 MR. D'AGOSTINO: May I speak with
2 him?

3 MS. BRADY: Sure.

4 MR. D'AGOSTINO: Off the record.

5 (Whereupon, an off the record
6 discussion took place.)

7 Q Did Mr. Strict say anything to you
8 during the ride to the hospital?

9 A He probably did, but I don't
10 remember what he said.

11 Q When you arrived at the hospital,
12 were the officers there?

13 A I don't know if they were there
14 when I arrived, but I do remember them in the
15 hospital, at least Officer Stevenson.

16 Q At some point, were the handcuffs
17 removed from you while you were at the hospital?

18 A I don't think so, I remember being
19 cuffed at all times.

20 Q You indicated you were cuffed in
21 front of you?

22 A I was cuffed behind me. I don't
23 remember exactly, but I do remember being cuffed
24 behind, but I don't know whether or not he took
25 them off and put them in the front. When I made

1 the indication, I just meant cuffed. Whether in
 2 front or back, I don't remember.

3 Q Did you see a doctor while you were
 4 at the hospital?

5 A Yes.

6 Q Was it a man or a woman?

7 A A man.

8 Q Do you remember the doctor's name?

9 A No.

10 Q Did you make any physical
 11 complaints to the doctor?

12 A I don't remember.

13 Q Do you remember if you had physical
 14 complaints?

15 A Definitely. I had pain through my
 16 shoulder and leg, also to my head.

17 Q Which shoulder?

18 A You know what, I'd have to refer to
 19 the Notice of Claim. I don't remember at this
 20 point.

21 Q Do you remember which leg?

22 A I believe they're both the same
 23 side.

24 Q You indicated that there was a cut
 25 on your head?

1 A Yes, above my left eye.

2 Q You received how many stitches?

3 A Four.

4 Q Did you receive any other treatment
 5 at the hospital that night?

6 A No.

7 Q Did you see any doctors thereafter,
 8 for any of the complaints that you had that day?

9 A No.

10 Q Then you indicated you were taken
 11 back to the Ardsley Police Department?

12 A Yes.

13 Q Approximately what time did you
 14 arrive there?

15 A I don't remember, exactly.

16 Q Approximately how long were you at
 17 the hospital?

18 A An hour, maybe. I'm not really
 19 sure how long.

20 Q After you were handcuffed at CVS,
 21 did you make a phone call at any time thereafter;
 22 were you able to make a phone call?

23 A No.

24 Q When you arrived at the police
 25 department, were you allowed to make a phone call?

1 A I didn't ask to make a phone call,
 2 so I don't know whether or not I was.

3 Q That was when Officer Stevenson or
 4 Sargent Fischer told you what you were being
 5 charged with?

6 A Officer Stevenson.

7 Q Where were you when he told you
 8 that?

9 A In the cell at the Ardsley Police
 10 Station.

11 Q Were you finger printed?

12 A Yes, I was.

13 Q Were you arraigned?

14 A Not that day, I was arraigned.

15 Q When were you arraigned?

16 A I don't remember the arraignment
 17 date.

18 Q Were you released at some point
 19 from the Ardsley Police Department?

20 A Yes, I was.

21 Q When was that?

22 A Probably 4:00 or 5:00 in the
 23 morning, the same day.

24 Q On March 3rd? It was March 3rd at
 25 midnight when the arrest happened or was it March

1 4th?

2 A That's just it, I'm thinking it's
 3 March 3rd.

4 Q It was midnight?

5 A Yes, because it was after midnight.
 6 I'm going to say it's March 3rd.

7 Q You were released --

8 A On March 3rd.

9 Q -- on March 3rd at about 4:00 or
 10 5:00 in the morning?

11 A Correct.

12 Q Were you given a date to return?

13 A On the tickets that were issued to
 14 me, there was a return date.

15 Q When was that return date?

16 A I don't recall.

17 Q Did you receive any other tickets
 18 other than for obstruction of justice, disorderly
 19 conduct, and resisting arrest?

20 A No.

21 Q Those were the three things you
 22 were charged with?

23 A That is correct.

24 Q Did you appear in court on those
 25 charges?

1 A Yes, I did.

2 Q Do you remember when that was?

3 A 2005, I don't remember the dates
4 that we went to court.

5 Q Can you approximate how long it was
6 after the arrest?

7 MR. D'AGOSTINO: If you'd like to
8 leave a space in the record, we'll provide
9 all the court dates.

10 MS. BRADY: Okay, please leave a
11 space in the transcript.

12 A _____.

13 Q Did you appear more than once in
14 court on these charges?

15 A Yes.

16 Q Approximately how many times?

17 A Four or five times.

18 Q Did you have a criminal attorney?

19 A Yes, I did.

20 Q Who was that?

21 A Rocco D'Agostino.

22 Q What is the nature of your legal
23 practice?

24 A Criminal defense and real estate
25 transactions. That's most of my work.

1 Q What was the ultimate outcome of
2 those charges?

3 A They were dismissed.

4 Q Do you know when that was?

5 MR. D'AGOSTINO: May I assist?

6 MS. BRADY: Sure.

7 MR. D'AGOSTINO: February 6, 2006.

8 Q Do you know who the prosecutor was
9 that was handling this case?

10 MR. D'AGOSTINO: Do you want me to
11 assist you?

12 MS. BRADY: Sure.

13 MR. D'AGOSTINO: It was the Office
14 of Jeanine Pirro. The Assistant District
15 Attorney was Kieran Byrne.

16 Q What was the basis of the
17 dismissal?

18 MR. D'AGOSTINO: I'm going to
19 object only because it calls for a legal
20 conclusion, but if you'd like, I'll supply
21 with you a copy of the decision and order.

22 MS. BRADY: I understand he's an
23 attorney and that he's not representing
24 himself, but he certainly would have a
25 laymen's understanding of why. If he

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1 doesn't know why, then that's fine. I'll
2 take the copy of the dismissal. He is in
3 criminal defense as well, so I think he
4 probably knows why.

5 MR. D'AGOSTINO: What I'm trying to
6 explain to you is that it calls for a
7 legal conclusion and the best evidence of
8 that is the decision and order. I will
9 make the objection now, and I'll do it
10 again in the future. If Mr. Bottari wants
11 to answer the question, he is certainly
12 free to do so.

13 Q Was it dismissed on the
14 prosecutor's motion or on your motion?

15 MR. D'AGOSTINO: Defense motion of
16 speedy trial was the Court's articulation
17 of the grounds for the dismissal. It was
18 a multi-faceted motion of dismissal on the
19 grounds that the Court basically decided
20 it on speedy trial and basically the
21 remainder of their motion was therefore
22 removed.

23 MS. BRADY: There was a motion
24 made?

25 MR. D'AGOSTINO: Yes.

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1 MS. BRADY: Based on that motion,
2 there was a dismissal?

3 MR. D'AGOSTINO: Yes.

4 Q Did you have any negotiations with
5 Mr. Byrne during the pendency of these charges?

6 A I did not.

7 Q Were you ever offered a plea
8 bargain?

9 MR. D'AGOSTINO: When you say you,
10 you're referring to Mr. Bottari?

11 MS. BRADY: Was Mr. Bottari
12 present?

13 MR. D'AGOSTINO: In February, I'm
14 sure you know that.

15 MS. BRADY: I know.

16 MR. D'AGOSTINO: Prosecutors don't
17 speak to defendants.

18 MS. BRADY: I don't know when there
19 is an attorney plea if there are different
20 concessions made.

21 MR. D'AGOSTINO: Just so it's
22 clear, there were negotiations between
23 defendant, defendant's counsel, and the
24 prosecution.

25 Q Was there any testimony taken

1 during the pendency of these charges during the
 2 course of the motions pending, or did any of the
 3 officers come in and speak to the Court in your
 4 presence?

5 A Yes.

6 Q Under what terms, was there
 7 testimony?

8 A Yes, Officer Stevenson testified at
 9 a suppression hearing.

10 Q You were present when that
 11 occurred?

12 A Yes.

13 Q What were you seeking to have
 14 suppressed?

15 A I believe his statement.

16 MR. D'AGOSTINO: I'm only going to
 17 object because the court record speaks for
 18 itself, but if you want to grill him on
 19 his memory.

20 MS. BRADY: I'm just interested to
 21 know his recollection of what happened.

22 MR. D'AGOSTINO: Sure.

23 MS. BRADY: I do not have the
 24 documents. Off the record.

25 (Whereupon, an off the record

1 discussion took place.)

2 MR. D'AGOSTINO: Just so the record
 3 is clear, I just don't want his future
 4 responses to be limited by his responses
 5 today.

6 MS. BRADY: I understand.

7 MR. D'AGOSTINO: Because the
 8 records speak with much more clarity than
 9 Mr. Bottari's recollection or even my own.

10 MS. BRADY: Off the record.

11 (Whereupon, an off the record
 12 discussion took place.)

13 Q Are you making any claim with
 14 regard to continuing physical injuries with respect
 15 to what happened on March 3rd?

16 A The only thing is the scar above my
 17 left eye. There is a permanent mark that will be
 18 there for the remainder of my life.

19 Q Do you have any pictures of your
 20 condition after the arrest?

21 A Yes, I do.

22 Q Do you have them with you?

23 A No.

24 Q Were they marked at the hearing
 25 yesterday?

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1 A No.

2 MS. BRADY: I'm going to request
 3 color photocopies of the pictures and just
 4 ask that you maintain the originals and/or
 5 digital means on which they were copied.

6 MR. D'AGOSTINO: Your demand is
 7 noted. My objection is noted. We'll take
 8 that under advisement.

9 MS. BRADY: Can I just ask what the
 10 objection is?

11 MR. D'AGOSTINO: He's not agreeing
 12 to supply it at this point, but if you're
 13 entitled to it, you'll get it.

14 Q In the Notice of Claim, there's
 15 also an indication of psychological injuries which
 16 I believe you broached with respect to the
 17 newspaper article. Have you sought any medical
 18 help with regard to any psychological injury?

19 A No, I have not.

20 Q Can you give me a specific list of
 21 individuals who spoke to you about seeing it in the
 22 newspaper?

23 A There was a few different people
 24 that spoke to me about it. I know one off-hand,
 25 Kevin Moriarity. As far as other names, I don't

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1 recall, but it was known in the community.

2 MR. D'AGOSTINO: If I may
 3 interject, we do have a list and would be
 4 more than happy to provide it to you on
 5 behalf of Mr. Bottari. He can supply that
 6 to you. Leave a space in the record.
 7 There's quite a few.

8 MS. BRADY: Leave spaces in the
 9 record. Leave a number of spaces.

10 A _____.

11 A _____.

12 A _____.

13 Q Do you know what date the
 14 information ran in the newspaper?

15 A I have the newspaper. I don't know
 16 the date.

17 MS. BRADY: We'll just ask for a
 18 copy of the newspaper.

19 A Getting back to your question about
 20 psychological, you know I was born and raised in
 21 Ardsley, and I'm slammed to the ground by police
 22 officers in my village, not doing anything wrong on
 23 my part, completely minding my own business, being
 24 in a public place lawfully. The psychological
 25 impact now is that I'm living in this community

1 where my children go to school, and there are
 2 parents that may or may not have my children play
 3 with their children because they read the newspaper
 4 and see, Andrew Bottari, 38-year-old man, arrested
 5 for this at 3:15 or whatever time in the morning
 6 that they said in the paper. I can't really
 7 describe exactly what the psychological term is,
 8 but it's a humiliation in part, and more to it --
 9 you know -- the impact on my own children. A
 10 parent may not want their children to play with my
 11 children because of what happened with their
 12 father, and also the fear of police officers at
 13 this point. I don't know what to expect. I'm
 14 always very courteous whenever I'm speaking to a
 15 police officer still to this day and plus as a
 16 prosecutor in Brooklyn, I'm always very sort of
 17 understanding of police officers and what they're
 18 going through. If I ever get stopped by a police
 19 officer, for whatever reason it is, I speak to them
 20 like a gentlemen and even in Ardsley Village, I've
 21 been stopped before, and they've asked me some
 22 questions. I say, my name is Andrew Bottari. I
 23 live up on the hill. I'm not saying anything bad,
 24 but I can't really figure out, articulate, the
 25 exact psychological impact.

1 Q Just to clarify, with respect to
 2 this incident that occurred, I believe you
 3 testified that when the police officer asked you
 4 your name, you questioned why he wanted it though,
 5 right?

6 A I don't know if I asked why he
 7 wanted it. I must have. He said, what's your name
 8 and I said, why? I'm not doing anything wrong so,
 9 yes. The answer to your question is yes.

10 Q Other than the time that you spent
 11 at the Ardsley Police Station, did you spend any
 12 other time in jail, any other time with regard to
 13 these charges?

14 A No.

15 Q Did you, yourself, take any notes
 16 with respect to what happened on March 3rd?

17 A No.

18 Q Other than the pictures that you
 19 took of your injury, did you take any other
 20 pictures with regard to the incident that happened
 21 on March 3rd?

22 A I went back to the parking lot
 23 where the incident occurred, and I took pictures of
 24 the blood that dripped out of my face onto the
 25 asphalt.

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1 MS. BRADY: I ask for copies of
 2 those as well.

3 MR. D'AGOSTINO: We will take it
 4 under advisement.

5 Q Do you have any specific claims
 6 against Kieran Byrne?

7 A No.

8 MS. BRADY: I have no further
 9 questions at this time. Thank you.

10 (Time Noted is 3:30 p.m.)

12 ANDREW R. BOTTARI

14 Subscribed and sworn to
 15 before me this _____
 16 day of _____, 2006.

18 NOTARY PUBLIC

Andrew R. Bottari

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E X H I B I T S

| EXHIBIT | DESCRIPTION | PG. |
|---------|-----------------|-----|
| A | Notice of Claim | 7 |

DOCUMENT AND INFORMATION REQUESTS:

| | |
|-------------------------------|---------|
| DESCRIPTION | PG./LN. |
| COLOR PHOTOCOPIES OF PICTURES | 31/2 |
| COPY OF NEWSPAPER | 32/17 |
| COPIES OF PICTURES | 35/1 |

C E R T I F I C A T E

I, Lisa Blute, a court reporter and Notary Public of the State of New York, do hereby certify:

That ANDREW R. BOTTARI, the witness whose examination is hereinbefore set forth, was duly sworn by me and that the within transcript is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

Lisa Blute

Correction Sheet

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter held on August 16, 2006.

PAGE ____ LINE ____ SHOULD READ: _____

REASON FOR CHANGE: _____

PAGE ____ LINE ____ SHOULD READ: _____

REASON FOR CHANGE: _____

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PAGE ____ LINE ____ SHOULD READ: _____

REASON FOR CHANGE: _____

PAGE ____ LINE ____ SHOULD READ: _____

REASON FOR CHANGE: _____

Sworn to before me this

____ day of _____, 2006.

NOTARY PUBLIC

ANDREW R. BOTTARI